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court. No such reason, he says, demands control of an injunction, which operates *in personam*. In proper cases it would not infringe any rights represented by the receiver, and a state court is as competent to pass on the propriety of it as a federal court. Mr. Coutts admits, however, that the three state court decisions in favor of his view do not give the subject the consideration it deserves. A Michigan case is opposed, and it may well be doubted if the Supreme Court of the United States will decide that the act was intended to give such power.

FOREIGN JUDGMENTS AS EVIDENCE OF THE RIGHTS FOUNDED UPON THEM. — A recent article in the Columbia Law Review contains a concise and scholarly summary of a large subject. *History of the Adoption of Section I. of Article IV. of the United States Constitution and a Consideration of the Effect on Judgments of that Section and of Federal Legislation*, by George P. Costigan, Jr., 4 Columbia L. Rev. 470 (Nov. 1904). That well-known section, enlarging upon a provision in the Articles of Confederation, provides that "full faith and credit" shall be given in each state to the public acts, records, and judicial proceedings of every other state, and that Congress shall prescribe the method of proof and the effect thereof. Congress at once exceeded the authority here given by exercising, in connection with it, the right given by the Constitution to legislate in aid of the general judicial power. For the acts of 1790 and of 1804, since incorporated in the Revised Statutes (sec. 905), gave to judgments by courts of the territories and possessions, as well as of the states, "full faith and credit" in every court "within the United States." Mr. Costigan notes that judicial legislation completed the circle by securing a like recognition throughout the land for judgments of the federal courts.

While most foreign judgments seem to have been merely *prima facie* evidence of matters properly adjudicated, the Constitution made sister-state judgments conclusive evidence, open only to the defense of lack of jurisdiction and to such other defenses as could be brought against them where they were rendered. The writer believes that the constitutional provision is self-executing without the statutes, and that, upon a demurrer to a complaint which alleges a sister-state judgment but does not authenticate it as required by statute, the question may yet come before the Supreme Court. Other points discussed are the application of those enactments to judgments of justices of the peace and to state judgments sued upon in courts of the Philippine Islands, for example, which are perhaps not literally "within the United States."

In contrasting the treatment of foreign and of sister-state judgments Mr. Costigan seems to take a position regarding comity that may be open to misunderstanding. Citing *Hilton v. Guyot* (159 U. S. 113), he says that "what comity sustains, unfriendliness can take away," and that "comity does not require us to do more by others than they do by us." It seems the better opinion that the admission to-day of many foreign judgments as conclusive evidence is based not upon courtesy but upon law justified by our own convenience. DICEY, *CONFLICT OF LAWS* 10. Since the business of the courts is merely to enforce the common law of which comity has thus become a recognized part, they may have no regard for their own kindly or unkindly feelings toward a foreign state. *The Nereide*, 9 Cranch (U. S.) 388, 422. It is only by legislation that foreign judgments may be deprived of the right they now enjoy under the principle of comity.

RESCISSION BY PAROL AGREEMENT. — The same number of the Columbia Law Review contains an instructive article in text-book style by Professor Williston. *Rescission by Parol Agreement*, 4 Columbia L. Rev. 455. The discussion is concerned with the incidents and effect of a parol agreement to rescind, and is based on the proposition that such an agreement, in order to

effectuate its purpose must possess all the requisites of a binding contract. The subject is divided into three parts: in the first of these the primary proposition is laid down, with a statement of the exceptions which have been recognized by some courts when a unilateral contract is concerned; in the second the application of the doctrine to written contracts is examined, with especial reference to the effect of a subsequent contract covering the same subject matter; and the effect of a parol agreement to discharge an obligation under seal occupies the third part.

In explaining his primary rule, the writer makes the statement that an agreement to rescind an executory bilateral contract, whether made before or after breach, is valid, because the promise of one party to give up his rights is consideration for the like promise by the other. Such a proposition would seem to need qualification, for, in the case of an agreement entered into after a material breach, it is hard to perceive what consideration is given by the party in default. His right against the other, if it may be correctly termed a right, is unenforceable because of his own material breach; and of course the surrender of an unenforceable right is neither a detriment to the promisor nor a benefit to the promisee.

CANADIAN COPYRIGHT IN ITS CONSTITUTIONAL AND LEGAL ASPECTS. II. *A. R. Clute*. 24 Can. L. T. 347.

COMPARATIVE ROMAN LAW. Part I. *James Williams*. 30 L. Mag. & Rev. 70.

CONGO STATE, THE; A REVIEW OF THE INTERNATIONAL POSITION. *G. G. Phillimore*. A review of the controversy between the British government and that of the Congo State as to deficiencies in the method of administration in the Congo State. 29 L. Mag. & Rev. 385.

CONTROL OF PUBLIC UTILITIES, THE. *William H. Bailey*. Discussing the regulation of rates by a city council under authority delegated by the legislature. 12 Am. Law. 444.

CROWN AS CORPORATION, THE. *W. Harrison Moore*. 20 L. Quar. Rev. 351.

DOCTRINE OF WAIVER, THE. *Colin P. Campbell*. Laying down a general rule, and contending that a waiver requires a consideration or facts equivalent to an estoppel to support it. 3 Mich. L. Rev. 9.

EQUITABLE DOCTRINE OF MARSHALLING THE ASSETS OF A DECEDENT'S ESTATE FOR THE PAYMENT OF DEBTS, THE. *C. B. Garnett*. 11 Va. L. Reg. 175. See NOTES, p. 221.

EXCLUSIVE POWER OF CONGRESS TO REGULATE INTERSTATE AND FOREIGN COMMERCE, THE. *David Walter Brown*. 4 Columbia L. Rev. 490.

FEDERAL COMMON LAW. *Hundson Cary*. Contending that there is a federal common law as distinguished from the common law of the various states. 10 Va. L. Reg. 475.

FIRE INSURANCE AS AN INDEMNITY CONTRACT. *Roy Elias Ressler*. 59 Cent. L. J. 364.

FREE CHURCH CASE, THE. *R. M. Williamson*. Supporting the recent decision of the House of Lords. 20 L. Quar. Rev. 415.

GAMBLING AND COGNATE VICES. *John R. Dos Passos*. Contending that such vices are merely *mala prohibita*, and advocating less harsh laws respecting them. 14 Yale L. J. 9.

HAS A STATE COURT JURISDICTION TO ISSUE AN INJUNCTION AGAINST A RECEIVER APPOINTED BY A FEDERAL COURT? *W. A. Coutts*. 59 Cent. L. J. 382. See *supra*.

HISTORY OF THE ADOPTION OF SEC. I. OF ART. IV. OF THE U. S. CONSTITUTION, AND A CONSIDERATION OF THE EFFECT ON JUDGMENTS OF THAT SECTION AND OF FEDERAL LEGISLATION. *Geo. P. Costigan, Jr.* 4 Columbia L. Rev. 470. See *supra*.

INJURIES OCCASIONED BY THIRD PERSONS. *G. S. Holmsted*. Pointing out some apparently contradictory propositions found in the authorities. 40 Can. L. J. 769.

JUDGE-MADE LAW. *A. H. F. Lefroy*. Suggesting certain lines along which, according to the writer, judges make, rather than interpret law. 20 L. Quar. Rev. 399.

LAND TRANSFER QUESTION, THE. *W. Strachan*. Suggesting a revised system of registration of title. 20 L. Quar. Rev. 427.

LIABILITY OF A MANUFACTURER FOR INJURIES TO THIRD PERSONS FROM IMPROPERLY CONSTRUCTED ARTICLES, THE. *Glenda Burke Slaymaker*. 59 Cent. L. J. 324.

- LIABILITY OF TELEGRAPH COMPANIES FOR NEGLIGENCE IN TRANSMISSION OR DELIVERY OF MESSAGES, THE. III. and IV. *Graham B. Smedley*. 10 Va. L. Reg. 507.
- LOANS FOR THE MAKING OR PAYMENT OF WAGERS. *A. V. Dicey*. A brief article to the effect that such loans do not come within the terms of the Gaming Act, 1892. 20 L. Quar. Rev. 436.
- MASSACHUSETTS PROPOSITION FOR AN EMPLOYERS' COMPENSATION ACT, THE. *Epaphroditus Peck*. Showing the present unsatisfactory state of the law, and approving the Massachusetts proposition. 14 Yale L. J. 18.
- MAY A MURDERER PROFIT BY HIS CRIME? *L. P. M.* Considering the question whether a murderer can succeed to the property of the deceased to which, except for the crime, he would be entitled. 1 N. C. J. of L. 532.
- MORAL CONSIDERATION IN PENNSYLVANIA. I. *Joseph P. McKeenan*. 9 Dickinson Forum 1.
- MORTGAGES OF MOVEABLES. *Anon.* Discussing briefly the state of the Indian law on the subject, and the need of legislation. 6 Bombay L. Rep. 193.
- MUNICIPAL CORPORATIONS. *Theodore D. Gottlieb*. An historical sketch of the origin and development of municipal corporations. 27 N. J. L. J. 325.
- NEUTRALITY OF GREAT BRITAIN, THE: THE FOREIGN ENLISTMENT ACT, 1870. *N. W. Sibley*. 29 L. Mag. & Rev. 454.
- NOTICE, CONDITION, AND DECLARATION.—THE DOMINION RAILWAY ACT, SEC. 246. *A. Rives Hall*. Arguing for an interpretation that will prevent railroads from contracting so as to relieve themselves from liability for negligence. 3 Can. L. Rev. 495.
- PRACTICAL QUESTION IN THE LAW OF FRAUDULENT CONVEYANCES, A. *Linton D. Landrum*. Showing error of the construction of recording acts which holds unrecorded conveyances void only as to lien creditors; and finding for other creditors without notice relief in equity on grounds of fraud and estoppel. 59 Cent. L. J. 344.
- PUTTING IN ONE'S OWN CASE ON CROSS-EXAMINATION. *John H. Wigmore*. An examination of the different rules upon the question with a strong condemnation of the so-called "federal rule" which confines the cross-examination to matters brought out in the direct examination. 14 Yale L. J. 26.
- RECENT CASES AS TO WINDING UP ORDERS. *C. S. MacInnes*. 40 Can. L. J. 726.
- RECONSTRUCTION OF COMPANIES. *Frank Evans*. Defining reconstruction and suggesting modes of accomplishing it. 20 L. Quar. Rev. 392.
- RESCISSION BY PAROL AGREEMENT. *Samuel Williston*. 4 Columbia L. Rev. 455. See *supra*.
- RIGHT TO RETAIN AN ADVOCATE, THE. *Edward S. Cox-Sinclair*. Discussing the right of an advocate to refuse upon some personal ground to appear on behalf of a litigant. 29 L. Mag. & Rev. 406.
- RUSSIAN RAIDS ON NEUTRAL COMMERCE. *Edwin Maxey*. Showing that by the weight of authority food-stuffs are not contraband of war. 3 Mich. L. Rev. 1.
- SALES UNDER DEEDS OF TRUST. *E. R. F. Wells*. Discussing the rights of *bona fide* purchasers at unauthorized sales. 10 Va. L. Reg. 491.
- SUBROGATION. *K. S. Ramaswami Sastry*. A discussion of the law of India as to subrogation by operation of law. 3 Madras Leg. Comp. 39.
- SURRENDER. *Herbert Thorndike Tiffany*. A full treatment of the subject. 3 Mich. L. Rev. 18.
- SWEDISH LAWBOOK OF 1734, THE: AN EARLY GERMANIC CODIFICATION. *Wilhelm Chydenius*. Discussing the provisions of the code on which is based the civil law of Sweden. 20 L. Quar. Rev. 377.
- TOPICS OF MALABAR LAW,—TEMPLES. *Anon.* Classifying temples and discussing public interference with so-called "private" temples, when their property is not well administered. 14 Madras L. J. 195.